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MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER TOMASZEWSKI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/928,130	<b>Applicant(s)</b> SULLIVAN ET AL.	
	<b>Examiner</b> Mike Tomaszewski	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>18 November 2002</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Notice To Applicant***

1. This communication is in response to the application filed on 10 August 2001.  
Claims 1-45 are pending. The IDS statements filed on 25 July 2002 and 18 November 2002 have been entered and considered.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 34-45 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

(A) Claims 34-45 are neither directed to a process, a machine, a manufacture nor a composition of matter, but to a template (i.e., computer graphical user interface or GUI). The rejected claims are directed to a template which is either an image displayed to a

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user or software that displays said image to a user. Such subject matter is non-statutory.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Regarding claim 1, the phrase "*additional* medical care" renders the claim(s) indefinite because there is no prior recitation of medical care of any sort.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5-7, 9-18, 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (6,047,259; hereinafter Campbell), in view of Kirshner (6,322,504; hereinafter Kirshner).

(A) As per claim 1, Campbell discloses an apparatus for improving the medical care of patients (Campbell: abstract; col. 49-61), comprising:

- (a) an input device for entering medical data presented by a patient, the data defining a patient data record (Campbell: abstract; col. 2, lines 8-21; col. 4, lines 56-60; Fig. 1-2);
- (b) a medical database that associates:
  - (i) certain patient data in said patient data record that increases the risk of a missed medical care opportunity (Campbell: col. 3, lines 55-59; col. 15, lines 21-29; Fig. 3-14) (Examiner considers "abnormal observations" to read on patient data that increases the risk of a missed medical care opportunity.), with
  - (ii) additional medical care that would reduce the risk of a missed medical care opportunity, despite the presentation of said certain patient data (Campbell: col. 17, lines 37-67; Fig. 3-14) (Examiner

considers "recommended therapy" to read on additional medical care that would reduce the risk of a missed medical care opportunity.);

- (c) a data processor programmed to compare said patient data record with said medical risk database to identify patient data in said record that increases the risk of a missed medical care opportunity (Campbell: col. 3, lines 33-67; col. 4, lines 1-25; Fig. 1-2); and
- (d) a communication device, responsive to the identification of patient data that increases the risk of a missed medical care opportunity, that communicates additional medical care that will reduce the risk of a missed medical care opportunity (Campbell: col. 3, lines 55-67; col. 4, lines 1-18; col. 5, lines 3-33; Fig. 1-2).

Campbell, however, fails to expressly disclose an apparatus for improving the medical care of patients, comprising:

- (e) medical risk database.

Nevertheless, this feature is old and well known in the art, as evidenced by Kirshner. In particular, Kirshner discloses an apparatus for improving the medical care of patients, comprising:

- (e) medical risk database (Kirshner: abstract; col. 47-51) (Examiner notes that Campbell's teaching of compiled data pertaining to abnormal observations and diagnoses could be considered a risk database as well.)

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Kirshner with the teachings of Campbell with the motivation of providing a means for determining, assessing, modifying, tracking, and managing medical risks (Kirshner: abstract).

(B) As per claim 2, Campbell discloses the medical care improving apparatus of claim 1, further comprising a data storage device for maintaining said patient data record (Campbell: col. 3, lines 47-60; Fig. 1-2).

(C) As per claim 3, Campbell discloses the medical care improving apparatus of claim 2, in which said data storage device comprises a read/write drive (Campbell: col. 4, lines 33-53; Fig. 1-2).

(D) As per claim 5, Campbell discloses the medical care improving apparatus of claim 2, in which said data storage device is positioned in proximity to a patient examination area (Campbell: col. 3, lines 55-64; col. 7, lines 29-33; Fig. 1-2).

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(E) As per claim 6, Campbell discloses the medical care improving apparatus of claim 2, in which said data storage device is positioned remotely with respect to a patient examination area (Campbell: col. 3, lines 55-64; col. 7, lines 29-33; col. 7, lines 4-8; Fig. 1-2).

(F) As per claim 7, Campbell discloses the medical care improving apparatus of claim 6, further comprising a communication device associated with said input device for establishing a communication link between said data storage device and said input device (Campbell: col. 3, lines 33-67; col. 4, lines 1-67; Fig. 1-2).

(G) As per claim 9, Campbell discloses medical care improving apparatus of claim 1, in which said input device is a keyboard (Campbell: col. 4, lines 56-65; Fig. 1).

(H) As per claim 10, Campbell discloses the medical care improving apparatus of claim 1, in which said input device is a cursor movement device (Campbell: col. 4, lines 56-65; Fig. 1).

(I) As per claim 11, Campbell discloses the medical care improving apparatus of claim 1, in which said input device is a touch screen (Campbell: col. 4, lines 56-65; col. 15, lines 60-64).



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(J) As per claim 12, Campbell discloses the medical care improving device of claim 1, further comprising an interactive display associated with said input device for displaying said patient data to an attending health care professional as it is entered (Campbell: col. 1, lines 62-67; col. 4, lines 55-67; col. 15, lines 53-64; Fig. 3-14).

(K) As per claim 13, Campbell discloses the medical care improving device of claim 12, further comprising a diagnostic protocol template displayed by said interactive display and adapted to elicit said patient data (Campbell: col. 2, lines 1-41; Fig. 3-14).

(L) As per claim 14, Campbell discloses the medical care improving device of claim 12, in which said interactive display also functions as said communication device (Campbell: col. 2, lines 1-41; Fig. 3-14; col. 14, lines 36-67).

(M) As per claim 15, Campbell discloses the medical care improving device of claim 13, in which said communication device communicates on said template additional medical care that would reduce the risk of a missed medical care opportunity (Campbell: col. 17, lines 37-67; Fig. 3-14).

(N) As per claim 16, Campbell discloses the medical care improving device of claim 13, in which said template includes at least one field presented on said visual display for entering certain patient data that increases the risk of a missed medical care opportunity (Campbell: col. 3, lines 55-59; col. 15, lines 21-29; Fig. 3-14).

(O) As per claim 17, Campbell discloses the medical care improving device of claim 16, in which said communication device displays on said visual display, in proximity to said field, information about additional medical care that would reduce the risk of a missed medical care opportunity (Campbell: col. 17, lines 37-67; Fig. 3-14).

(P) As per claim 18, Campbell discloses the medical care improving device of claim 1, in which said communication device responds to the entry of patient data, shortly after the entry of said data, by providing information about additional medical care that would reduce the risk of a missed medical care opportunity (Campbell: col. 13, lines 19-39; Fig. 3-14).

(Q) As per claim 29, Campbell discloses the medical care improving apparatus of claim 1, in which said communication device is a video display operatively connected to said data processor to display an indication of appropriate additional medical care (Campbell: col. 4, lines 65-67; col. 5, lines 1-2; col. 14, lines 53-56; Fig. 5).

(R) As per claim 30, Campbell discloses the medical care improving apparatus of claim 1, in which said communication device is an alarm providing a signal perceptible to a health care professional (Campbell: col. 14, lines 57-67; Fig. 5).

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(S) As per claim 31, Campbell discloses medical care improving apparatus of claim 30, in which said alarm is selectively perceptible to a health care professional and not to the patient (Campbell: 14, lines 57-67; Fig. 5).

(T) As per claim 32, Campbell discloses medical care improving apparatus of claim 30, in which said alarm is encoded, to avoid alarming a patient who happens to encounter it (Campbell: col. 14, lines 57-67; Fig. 5).

(U) As per claim 33, Campbell discloses an interactive method for avoiding medical risk during a medical diagnostic procedure carried out by a health care professional, comprising:

- (a) identifying medical data presented by the patient (Campbell: abstract; col. 2, lines 8-21; col. 4, lines 56-60; Fig. 1-2);
- (b) recording said medical data in a data storage device, forming data records (Campbell: abstract; col. 2, lines 8-21; col. 4, lines 56-60; Fig. 1-2);
- (c) maintaining on a data storage medium a medical database that associates:
  - (i) certain medical data that increases the risk of a missed medical care opportunity (Campbell: col. 3, lines 55-59; col. 15, lines 21-29; Fig. 3-14) (Examiner considers "abnormal observations" to read on

- patient data that increases the risk of a missed medical care opportunity.); and
- (ii) additional medical care that would reduce the risk of a missed medical care opportunity, despite the presentation of said certain medical data (Campbell: col. 17, lines 37-67; Fig. 3-14) (Examiner considers “recommended therapy” to read on additional medical care that would reduce the risk of a missed medical care opportunity.);
- (d) comparing the medical data presented by the patient with said medical risk database to identify whether medical data presented by the patient is associated with a risk of a missed medical care opportunity (Campbell: col. 3, lines 33-67; col. 4, lines 1-25; Fig. 1-2);
- (e) if medical information presented by the patient is associated with a risk of a missed medical care opportunity, communicating to said health care professional information about additional medical care that would reduce the risk of a missed medical care opportunity (Campbell: col. 3, lines 55-67; col. 4, lines 1-18; col. 5, lines 3-33; Fig. 1-2).

Campbell, however, fails to expressly disclose an interactive method for avoiding medical risk during a medical diagnostic procedure carried out by a health care professional, comprising:

- (f) maintaining on a data storage medium a medical risk database.

Nevertheless, this feature is old and well known in the art, as evidenced by Kirshner. In particular, Kirshner discloses an interactive method for avoiding medical risk during a medical diagnostic procedure carried out by a health care professional, comprising:

- (f) maintaining on a data storage medium a medical risk database (Kirshner: abstract; col. 47-51) (Examiner notes that Campbell's teaching of compiled data pertaining to abnormal observations and diagnoses could be considered a risk database as well.).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Kirshner with the teachings of Campbell with the motivation of providing a means for determining, assessing, modifying, tracking, and managing medical risks (Kirshner: abstract).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell and Kirshner as applied to claim 1 above, and further in view of Joao (6,283,761; hereinafter Joao).

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(A) As per claim 4, Campbell fails to expressly disclose the medical care improving apparatus of claim 3, in which said read/write drive is located in a portable computer.

Nevertheless, these features are old and well known, as evidenced by Joao. In particular, Joao discloses the medical care improving apparatus of claim 3, in which said read/write drive is located in a portable computer (Joao: col. 14, lines 49-59).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the combined teachings of Campbell and Kirshner with the motivation of providing an apparatus and a method for processing and/or for providing healthcare information and/or healthcare-related information (Joao: col. 7, lines 61-65).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell and Kirshner as applied to claim 1 above, and further in view of Bonutti (6,901,404; hereinafter Bonutti).

(A) As per claim 8, Campbell fails to expressly disclose the medical care improving apparatus of claim 1, in which said medical risk database is a compilation of information derived from medical malpractice litigation.

Nevertheless, these features are old and well known, as evidenced by Bonutti. In particular, Bonutti discloses the medical care improving apparatus of claim 1, in which

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said medical risk database is a compilation of information derived from medical malpractice litigation (Bonutti: abstract; col. 1, lines 33-58; col. 5, lines 53-57).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Bonutti with the combined teachings of Campbell and Kirshner with the motivation of providing a means and method of compiling and disseminating litigation information (Bonutti: 33-37).

8. Claims 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell and Kirshner as applied to claim 1 above, and further in view of Tymes (5,157,687; hereinafter Tymes).

(A) As per claim 19, Campbell fails to expressly disclose the medical care improving device of claim 18, in which said communication device responds within 10 minutes after the entry of said data.

Nevertheless, these features are old and well known, as evidenced by Tymes. In particular, Tymes discloses the medical care improving device of claim 18, in which said communication device responds within 10 minutes after the entry of said data (Tymes: col. 12, lines 11-15) (Examiner notes that Tymes teaches communication device response times of one second or less (i.e., within ten minutes.)).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Tymes with the combined teachings of Campbell and Kirshner with the motivation of providing a reliable and fast response (Tymes: col. 2, lines 44-47).

Examiner also notes that Tymes does not expressly teach an array of communication device response times. Nevertheless, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Tymes to incorporate any particular response time that the inventor desired as a matter of design choice (*In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)), whether the response time was within 10 minutes, 2 minutes, 1 minute, 30 seconds, 20 seconds, 10 seconds, 5 seconds, 4 seconds, or 2 seconds, ad infinitum. The motivation, as aforementioned, would be to provide a reliable and fast response (Tymes: col. 2, lines 44-47).

(B) Claims 20-28 substantially repeat the same limitations of claim 19 and are therefore, rejected for the same reasons given for claim 19.

9. Claims 34-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell, in view of Segal (6,754,655; hereinafter Segal).

(A) As per claim 34, Campbell discloses an interactive diagnostic template for medical diagnosis, said template comprising:



- (a) indicia indicating potential symptoms contributing to a diagnosis  
(Campbell: col. 16, lines 31-42; Fig. 3-14).

Campbell, however, fails to expressly disclose an interactive diagnostic template for medical diagnosis, said template comprising:

- (b) a multiplicity of indicia;
- (c) said symptoms including:
  - (i) a first subset of prompted symptoms that should routinely be checked to properly document the diagnosis; and
  - (ii) a second subset of optional symptoms that can be checked at the option of an attending health care professional; and
- (d) symbols associated with said prompted symptoms that have a first condition when the evaluation of a prompted symptom has not yet been documented and a second, visibly distinct condition when evaluation of the prompted symptom has been documented.

Nevertheless, these features are old and well known, as evidenced by Segal. In particular, Segal discloses an interactive diagnostic template for medical diagnosis, said template comprising:

- (b) a multiplicity of indicia (Segal: abstract; Fig. 3-6);
- (c) said symptoms including:
  - (i) a first subset of prompted symptoms that should routinely be checked to properly document the diagnosis (Segal: col. 6, lines 32-67; col. 9, lines 5-32; Fig. 3-6; Examiner considers Segal's teaching of a finding that is completely useful to be a first subset and those findings falling short of complete usefulness to be part of a second subset.)  
  
(Examiner also notes that Campbell teaches checking particular symptoms right away (i.e., a first subset of symptoms), and others that can be performed later. For those symptoms that need to be checked right away, additional queries (i.e., a second subset of symptoms) are displayed. See col. 13, lines 27-35 and Fig. 6.); and
  - (ii) a second subset of optional symptoms that can be checked at the option of an attending health care professional (Segal: col. 6, lines 32-67; col. 9, lines 5-32; Fig. 3-6; Examiner considers Segal's teaching of a finding that is completely useful to be a first subset and those findings falling short of complete usefulness to be part of a second subset.)  
  
(Examiner also notes that Campbell teaches checking particular symptoms right away (i.e., a first subset of symptoms), and others that can be performed later. For those symptoms that need to be

checked right away, additional queries (i.e., a second subset of symptoms) are displayed. See col. 13, lines 27-35 and Fig. 6.); and

- (d) symbols associated with said prompted symptoms that have a first condition when the evaluation of a prompted symptom has not yet been documented and a second, visibly distinct condition when evaluation of the prompted symptom has been documented (Segal: col. 9, lines 5-20; col. 10, lines 45-52; Fig. 3-6).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Segal with the teachings of Campbell with the motivation of providing means of aiding a healthcare professional in making a diagnosis (Segal: abstract).

- (B) As per claim 35, Campbell discloses the interactive diagnostic template of claim 34, wherein the first condition of said symbols is a representation of a lit red light and the second condition of said symbols is a representation of a lit green light (Campbell: col. 12, lines 12-47; Fig. 3-14).

- (C) As per claim 36, Campbell discloses the interactive diagnostic template of claim 34, further comprising:

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- (a) indicia indicating at least one conditionally prompted symptom that is prompted when at least a first other associated prompted symptom is present but not prompted if the other associated prompted symptom is absent (Campbell: col. 16, lines 31-67; col. 17, lines 1-36; Fig. 3-14).

Campbell, however, fails to expressly disclose the interactive diagnostic template of claim 34, further comprising:

- (b) a symbol associated with said conditionally prompted symptom that:
  - (i) is displayed only if the associated prompted symptom is documented; and
  - (ii) when displayed, has a first condition when the conditionally prompted symptom has not yet been investigated and a second, visibly distinct condition when evaluation of the conditionally prompted symptom has been documented.

Nevertheless, these features are old and well known in the art, as evidenced by Segal. In particular, Segal discloses the interactive diagnostic template of claim 34, further comprising:

- (b) a symbol associated with said conditionally prompted symptom that:

- (i) is displayed only if the associated prompted symptom is documented (Segal: col. 9, lines 5-20; col. 10, lines 45-52; Fig. 3-6); and
- (ii) when displayed, has a first condition when the conditionally prompted symptom has not yet been investigated and a second, visibly distinct condition when evaluation of the conditionally prompted symptom has been documented (Segal: col. 9, lines 5-20; col. 10, lines 45-52; Fig. 3-6).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Segal with the teachings of Campbell with the motivation of providing means of aiding a healthcare professional in making a diagnosis (Segal: abstract).

(D) As per claim 37, Campbell discloses the interactive diagnostic template of claim 36, wherein the first condition of said symbol associated with said conditionally prompted symptom is a representation of a lit red light and the second condition of said symbol is a representation of a lit green light (Campbell: col. 12, lines 12-47; Fig. 3-14).

(E) As per claim 38, Campbell discloses interactive diagnostic template for medical triage of a patient, comprising:

- (a) a display presenting a list of acute emergencies that require immediate notification to a treating medical professional (Campbell: abstract; col. 13, lines 19-39; Fig. 3-14);
- (b) acute emergency list prompting a triaging medical professional to evaluate whether any of the acute emergencies exists and a triaging medical professional ruling out all of the acute emergencies (Campbell: col. 12, lines 12-47; Fig. 3-14); and
- (c) a warning signal to the triaging medical professional, responsive to the documentation of an acute emergency, to notify a treating medical professional immediately (Campbell: col. 14, lines 57-67; Fig. 5).

Campbell, however, fails to expressly disclose interactive diagnostic template for medical triage of a patient, comprising:

- (d) at least one symbol associated with at the acute emergency list that has a first condition and a second, visibly distinct condition.

Nevertheless, these features are old and well known in the art, as evidenced by Segal. In particular, Segal discloses interactive diagnostic template for medical triage of a patient, comprising:

- (d) at least one symbol associated with at the acute emergency list that has a first condition and a second, visibly distinct condition (Segal: col. 9, lines 5-20; col. 10, lines 45-52; Fig. 3-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Segal with the teachings of Campbell with the motivation of providing means of aiding a healthcare professional in making a diagnosis (Segal: abstract).

(F) As per claim 39, Campbell discloses triage template of claim 38, comprising a first display of said warning for use by a medical professional who is conducting triage and a second display of said warning signal positioned remotely from said first display for use by another medical professional who should know if a patient in triage is suffering from an acute emergency condition (Campbell: col. 14, lines 57-67; Fig. 5).

(G) As per claim 40, Campbell discloses the triage template of claim 38, wherein the first condition of said symbol is a representation of a lit red light and the second condition of said symbol is a representation of a lit green light (Campbell: col. 12, lines 12-47; Fig. 3-14).

(H) As per claim 41, Campbell discloses an interactive diagnostic template for medical diagnosis, said template comprising:

- (a) indicating potential symptoms contributing to a diagnosis (Campbell: col. 16, lines 31-42; Fig. 3-14); and
- (b) at least one key information icon associated with at least one potential symptom, indicating that additional information pertinent to the potential symptom is available for review upon request (Campbell: col. 14, lines 36-67; col. 15, lines 1-5; Fig. 3-14); and
- (c) an input device for requesting a display of the additional information associated with said icon (Campbell: col. 4, lines 56-60; Fig. 1-2).

Campbell, however, fails to expressly disclose an interactive diagnostic template for medical diagnosis, said template comprising:

- (d) a multiplicity of indicia indicating potential symptoms contributing to a diagnosis.

Nevertheless, these features are old and well known in the art, as evidenced by Segal. In particular, Segal discloses an interactive diagnostic template for medical diagnosis, said template comprising:

- (d) a multiplicity of indicia indicating potential symptoms contributing to a diagnosis (Segal: abstract; Fig. 3-6).



One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Segal with the teachings of Campbell with the motivation of providing means of aiding a healthcare professional in making a diagnosis (Segal: abstract).

(I) As per claim 42, Campbell discloses the template of claim 41, wherein said additional information comprises at least one anatomical drawing of the site of the symptom associated with said icon (Campbell: col. 15, lines 53-67; col. 16, lines 1-12; Fig. 4).

(J) As per claim 43, Campbell fails to expressly disclose the template of claim 41, wherein said additional information comprises at least one diagnostic score relating to the symptom associated with said icon.

Nevertheless, these features are old and well known in the art, as evidenced by Segal. In particular, Segal discloses the template of claim 41, wherein said additional information comprises at least one diagnostic score relating to the symptom associated with said icon (Segal: abstract; col. 7, lines 3-7; Fig. 3-6).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Segal with the teachings of Campbell with the motivation of providing means of aiding a healthcare professional in making a diagnosis (Segal: abstract).

(K) As per claim 44, Campbell discloses the template of claim 41, wherein said additional information comprises an updates on the standard of care relating to the symptom associated with said icon (Campbell: col. 10, lines 64-67; col. 11, lines 1-30; Fig. 3-14).

(L) As per claim 45, Campbell discloses the template of claim 41, wherein said additional information comprises information on how to test for the symptom associated with said icon (Campbell: col. 10, lines 64-67; col. 11, lines 1-30; Fig. 3-14).

(M) Examiner also notes the following in regards to claims 34-45. As aforementioned, Campbell does not expressly teach various specific items of information (e.g., subsets of symptoms), various specific symbols (e.g., a symbols having first and second conditions), and various specific color signal schemes (e.g., red and green "lights"). Nevertheless, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Campbell to incorporate these differences as a matter of design choice (*In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)). The motivation would be to provide a system for managing a healthcare practice and for effectively guiding a healthcare professional through diagnostic examinations (Campbell: abstract).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art teaches a computerized medical diagnostic system including re-enter function and sensitivity factors (5,594,638); an automated diagnostic system and method including multiple diagnostic modes (US 2002/0052540); and an apparatus and method for documenting physical examinations (4,869,531).

The cited but not applied prior art also includes non-patent literature articles by Colburn, Don. ("Family Medical Guides Offer Useful Diagnostic Tools" May 25, 2000. The Salt Lake Tribune. pg. D.2.) and Smith, Jennifer L. ("Computer Assisted E.R. Diagnosis" Mar/Apr 1994. Health Systems Review. Vol. 27, Iss. 2. pg. 58.).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

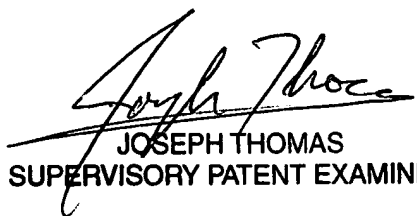
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MT

~~MA~~

11.23.05

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER